

AMENDMENT TO RULES COMMITTEE PRINT 115-

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OFFERED BY MR. BEYER OF VIRGINIA

At the end of title VIII, add the following new section:

1 **SEC. 8___. USE OF LOWEST PRICE TECHNICALLY ACCEPT-**
2 **ABLE SOURCE SELECTION PROCESS.**

3 (a) STATEMENT OF POLICY.—It shall be the policy
4 of the United States Government to avoid using lowest
5 price technically acceptable source selection criteria in cir-
6 cumstances that would deny the Government the benefits
7 of cost and technical tradeoffs in the source selection proc-
8 ess.

9 (b) REVISION OF FEDERAL ACQUISITION REGULA-
10 TION.—Not later than 120 days after the date of the en-
11 actment of this Act, the Federal Acquisition Regulation
12 shall be revised to require that, for solicitations issued on
13 or after the date that is 120 days after the date of the
14 enactment of this Act, lowest price technically acceptable
15 source selection criteria are used only in situations in
16 which—

17 (1) an executive agency is able to comprehen-
18 sively and clearly describe the minimum require-

1 ments expressed in terms of performance objectives,
2 measures, and standards that will be used to deter-
3 mine acceptability of offers;

4 (2) the executive agency would realize no, or
5 minimal, value from a contract proposal exceeding
6 the minimum technical or performance requirements
7 set forth in the request for proposal;

8 (3) the proposed technical approaches will re-
9 quire no, or minimal, subjective judgment by the
10 source selection authority as to the desirability of
11 one offeror's proposal versus a competing proposal;

12 (4) the source selection authority has a high de-
13 gree of confidence that a review of technical pro-
14 posals of offerors other than the lowest bidder would
15 not result in the identification of factors that could
16 provide value or benefit to the executive agency;

17 (5) the contracting officer has included a jus-
18 tification for the use of a lowest price technically ac-
19 ceptable evaluation methodology in the contract file;
20 and

21 (6) the executive agency has determined that
22 the lowest price reflects full life-cycle costs, including
23 for operations and support.

24 (c) AVOIDANCE OF USE OF LOWEST PRICE TECH-
25 NICALLY ACCEPTABLE SOURCE SELECTION CRITERIA IN

1 CERTAIN PROCUREMENTS.—To the maximum extent
2 practicable, the use of lowest price technically acceptable
3 source selection criteria shall be avoided in the case of a
4 procurement that is predominately for the acquisition of—

5 (1) information technology services,
6 cybersecurity services, systems engineering and tech-
7 nical assistance services, advanced electronic testing,
8 audit or audit readiness services, or other knowl-
9 edge-based professional services;

10 (2) personal protective equipment; or

11 (3) knowledge-based training or logistics serv-
12 ices in contingency operations or other operations
13 outside the United States, including in Afghanistan
14 or Iraq.

15 (d) REPORTING.—Not later than one year after the
16 date of the enactment of this Act, and annually thereafter
17 for three years, the Comptroller General of the United
18 States shall submit to the appropriate congressional com-
19 mittees a report on the number of instances in which low-
20 est price technically acceptable source selection criteria is
21 used for a contract exceeding \$2,000,000, including an ex-
22 planation of how the situations listed in subsection (b)
23 were considered in making a determination to use lowest
24 price technically acceptable source selection criteria.

25 (e) DEFINITIONS.—In this section:

1 (1) EXECUTIVE AGENCY.—The term “executive
2 agency” has the meaning given that term in section
3 102 of title 40, United States Code, except that the
4 term does not include the Department of Defense.

5 (2) CONTINGENCY OPERATION.—The term
6 “contingency operation” has the meaning given that
7 term in section 101 of title 10, United States Code.

8 (3) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means the Committee on Oversight and
11 Government Reform of the House of Representatives
12 and the Committee on Homeland Security and Gov-
13 ernmental Affairs of the Senate.

